



AGENDA ITEM NUMBER _____

Bernalillo County Board of County Commissioners

Meeting Date: August 22, 2006

Department: Zoning, Building, Planning & Environmental Health **Staff Contact:** Brennon Williams, Zoning Administrator

TITLE: APPEAL: Appeal of the Board of Adjustment's determination to approve two (2) variance requests for encroachment of a proposed single-family dwelling into the required front and side yard setback areas (CO-60007/BA-60008/ZA-60017 and CO-60008/BA-60009/ZA-60018).

BOARD OF ADJUSTMENT RECOMMENDATION:

Overturn the previous decisions of the Zoning Administrator and grant the appeals (BA-60008/ZA-60017 and BA-60009/ZA-60018).

SUMMARY:

On May 5, 2006, the Board of Adjustment (BA) voted 5-1 (Commissioner McMahan against) to overturn the previous decisions of the Zoning Administrator and grant two appeals for variances to the required front and side yard setback distances. The subject property for these requests is located at 10601 Eagle Rock Ave. NE, zoned A-1, and contains approximately .874. Each BA decision was based on five Findings and two Conditions (Attachment 3).

The owner of the property is seeking approval to construct a single-family dwelling toward the southeast corner of the lot which will encroach into the front and side yards due to the existence of a large flood plain affecting the northern portion of the site. The proposed dwelling will be placed 15 feet from the front property line and five (5) feet from the side property line. Variances of 10 feet and five (5) feet are needed, respectively.

The BA found that the existence of the flood plain that traversed the site met the criteria for approval of the appeals, in that the percentage of build-able area on the subject property was less than that of other sites in the immediate vicinity.

The Comprehensive Zoning Ordinance of Bernalillo County allows the granting of variances to the extent necessary to allow an owner reasonable use of their land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with the property which are not generally found in the locality of the neighborhood concerned.

These matters were previously deferred by the Board of County Commissioners from the June hearing at the request of the owner (Attachments 1 and 2).

ATTACHMENTS:

1. Board of County Commissioners Notices of Decision (June 29, 2006)
2. Property owner's request for deferral
3. Appeal applications and materials
4. Board of Adjustment Notices of Decision (May 5, 2006)
5. Correspondence presented by opposition for BA hearing
6. Board of Adjustment packet (May 3, 2006, hearing)
7. Materials supporting appeals to be considered by BCC
8. Minutes of May 2006 BA hearing (unapproved draft copy)

STAFF ANALYSIS SUMMARY:

Zoning/Building/Planning/Environmental Health:
Staff recommends approval of the appeals.